THE HON'BLE SRI JUSTICE K.C.BHANU

W.P.NO.14513 OF 2005

DATE: 25.07.2005

Between:

C. Narayana Reddy

…… Petitioner

and

The Principal Secretary to Govt. Irrigation & CAD Dept.,

Andhra Pradesh, Secretariat, Hyderabad and others.

…… Respondents

THE HON'BLE SRI JUSTICE K.C.BHANU

W.P.NO.14513 OF 2005

ORDER:

The writ petition is filed assailing the action of the first respondent in issuing Lr.No.19664/Ser.I.2/2005-2, dated 02.07.2005, superceding the orders in Lr.No.14656/Ser.I.2/2005-1, dated 27.04.2005.

The Tungabhadra Board, the second respondent herein, was constituted by the Government of India to share the water and electricity between the states of Andhra Pradesh and Karnataka. The case of the petitioner is that he joined the second respondent as the Sub-Divisional Officer in LLC.1 Sub Division at Kurugodu and after completion of two years he was transferred to HLC.2 Sub-Division, Torangallu, in 2003. Anticipating transfer from Torangallu, the petitioner made a representation to the first respondent seeking his retention at that place, for one more year. The first respondent, through his orders, dated 27.04.2005, directed the second respondent to continue the petitioner in the same post at Torangallu. Consequently, his retention for one more year was approved by the second respondent, in its meting held on 21.06.2005, and the same was communicated *vide* letter No.32/CC/95, dated 02.7.2005. The grievance of the petitioner is that meanwhile, the fourth respondent approached the first respondent and obtained proceedings in Lr.No.19664/Ser.I.2/2005-2, dated 02.07.2005, wherein it is requested that the fourth respondent be posted at HLC No.2 Sub-Division, Torangallu, as per TB Board Rules and procedure. Hence, the petitioner filed the present writ petition.

The learned counsel for the petitioner contended that on the representation being made by the petitioner, the Government of Andhra Pradesh, by its letter, dated 27.04.2005, requested the second respondent to continue the petitioner at HLC.2 Sub-Division, Torangallu and in pursuance of the same, the Board approved his retention for one more year and in that view of the matter the proceedings of the first respondent, dated 02.07.2005, requesting the second

respondent to post the fourth respondent in the abovementioned place, superceding the earlier orders, dated 27.04.2005, cannot be sustained.

On the other hand, the learned counsel for the fourth respondent contended that as per the Scheme formulated by the Tungabhadra Board, one person is required to work in a particular sub-division for a period of two years and thereafter the Board is at liberty to take a decision in effecting transfers. According to him, if the impugned order is set aside, on the ground that the Government has no authority to issue such a letter, it would result in reviving another illegal order, dated 24.07.2005. Reference in this connection was made to the Judgments in *Gadde Venkateswara Rao v. Government of Andhra Pradesh*, and *Devendra Prasad Gupta v. The State of Bihar*.

Admittedly, the petitioner and the fourth respondent were deputed to Tungabhadra Board to work as Deputy Executive Engineers. Based on the representation given by the petitioner, the first respondent addressed a letter, dated 27.04.2005, to the second respondent that the Government of A.P. desires to continue the writ petitioner as Sub-Divisional Officer, HLC.2 Torangallu on deputation, until further intimation. Consequently, the second respondent took a decision on 21.06.2005 for retention of the petitioner at the same division for a period of one more year, as desired by the first respondent. Thereafter, at the request of the fourth respondent, the first respondent, through his letter, dated 02.07.2005, directed the second respondent to post the fourth respondent at HLC.2 Sub division, Torangallu, as per the procedure of Tungabhadra Board. In view of the said proceedings, the petitioner filed the writ petition anticipating his transfer, without there being any infringement of right whatsoever. It is not in dispute that on an earlier occasion, Tungabhadra Board acted at the request made by the State Government in retaining the petitioner. However, that does not mean that the Board has to take the same view in effecting the transfer of the petitioner in pursuance of the letter, dated 02.07.2005.

In *Gadde Venkateswara Rao's case (1 cited supra)*, the Apex Court held that

> "In those circumstances, was it a case for the High Court to interfere in its discretion and quash the order of the Government dated April 18, 1963? If the High Court had quashed the said order, it would have restored an illegal order-it would have given the Health Center to a

> village contrary to the valid resolution passed by the Panchayat Samithi.".

In *Devender Prasad Gupta's case (2 cited supra),* it has been held that

> "it is well settled that the writ jurisdiction of this Court should not be exercised for the purpose of quashing an illegal order the effect whereof will be to revive another illegal order".

As can be seen from the record, it is evident that the State Government is addressing letters to the second respondent, on the representations being made by the employees, who are deputed to the Board, to retain them at particular place. No doubt, the proceedings issued by the first respondent, dated 27.04.2005, are not under challenge. However, it has to be observed that the State Government cannot interfere with the administration of Tungabhadra Board. At best, it can depute the persons, as desired by the Board. In any view of the matter, the order under challenge does not suffer from any incurable infirmity, in view of the fact that no right of the petitioner has been infringed. As a matter of fact, the impugned letter indicates that the first respondent requested the second respondent to act in accordance with the Tungabhadra Board Rules and procedure in force, in effecting transfer of the fourth respondent.

It is not out of place to mention here that in the counter-affidavit filed by the respondent, it is specifically stated that a Scheme has been formulated by the Board for deployment of staff. As per the said Scheme, the Sub-Divisional Officer will have to work for the office of the Chief Engineer, IB/Superintending Engineer, IB for a period of one year, thereafter two years in each division. Therefore, there are no grounds to interfere with the impugned proceedings.

The writ petition is devoid of merits and the same is accordingly dismissed. There shall be no order as to costs.

25.07.2005

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